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ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT

Report of the Sixth Committee

Rapporteur: Mr. Ghassan OBEID (Syrian Arab Republic)

I. INTRODUCTION

1. The item entitled "Establishment of an international criminal court" was included in the provisional agenda of the fifty-second session of the General Assembly pursuant to Assembly resolution 51/207 of 17 December 1996.

2. At its 4th plenary meeting, on 19 September 1997, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 11th to 15th and 32nd meetings, from 21 to 24 October and on 19 November 1997. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/52/SR.11-15 and 32).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Letter dated 1 October 1997 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General, transmitting the communiqué of the Meeting of Ministers for Foreign Affairs and Heads of Delegation of the Movement of Non-Aligned Countries to the fifty-second session of the General Assembly, held in New York on 25 September 1997 (A/52/447-S/1997/775);

(b) Decisions adopted by the Preparatory Committee on the Establishment of an International Criminal Court at its two sessions held in 1997 pursuant to resolution 51/207;[1]

5. At the 11th meeting, on 21 October, the Chairman of the Preparatory Committee on the Establishment of an International Criminal Court introduced the decisions adopted by the Preparatory Committee at its two sessions held in 1997.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/52/L.16

6. At the 32nd meeting, on 19 November, the representative of Germany, on behalf of the Chairman, introduced a draft resolution entitled "Establishment of an international criminal court" (A/C.6/52/L.16), and orally revised it as follows:

(a) In operative paragraph 8 the words "to invite the Conference" were replaced with the words "to invite to the Conference";

(b) At the end of footnote 3 the phrase "51/1 and 51/6" was replaced with the phrase "51/1, 51/6 and 51/204".

7. At the same meeting, before the adoption of the draft resolution, the Secretary of the Committee made a statement (see A/C.6/52/SR.32).

8. Also at the same meeting, the Committee adopted draft resolution A/C.6/52/L.16, as orally revised, without a vote (see para. 9).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

9. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Establishment of an international criminal court

The General Assembly,

Recalling its resolutions 47/33 of 25 November 1992, 48/31 of 9 December 1993, 49/53 of 9 December 1994 and 50/46 of 11 December 1995,

Considering that, in its resolution 51/207 of 17 December 1996, it decided to reaffirm the mandate of the Preparatory Committee on the Establishment of an International Criminal Court, and decided also that the Preparatory Committee should meet from 11 to 21 February, 4 to 15 August and 1 to 12 December 1997, and from 16 March to 3 April 1998, in order to complete the drafting of a widely acceptable consolidated text of a convention, to be submitted to a diplomatic conference of plenipotentiaries,

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[1] A/AC.249/1997/L.5 and L.18/Rev.1.

Recalling that, in its resolution 51/207, it further decided that a diplomatic conference of plenipotentiaries should be held in 1998, with a view to finalizing and adopting a convention on the establishment of an international criminal court,

Recognizing the importance of concluding the work of the conference through the promotion of general agreement on matters of substance,

Noting that, at its fifty-first meeting, on 21 February 1997,[2] the Preparatory Committee welcomed the offer by the Government of Italy to hold the diplomatic conference at Rome and recommended to the General Assembly that, pursuant to Assembly resolution 51/207 and after consideration by the Committee on Conferences, a decision in accordance with the offer should be made when dealing with the necessary arrangements for the conference, on the understanding that the organization of the conference at Rome would proceed on the basis of the usual practice concerning the funding of such events taking place away from United Nations Headquarters or other United Nations offices,

Taking note of the report of the Committee on Conferences,[3] in which the Committee recommended to the General Assembly that it should adopt the draft biennial calendar of conferences and meetings for 1998-1999 contained in the annex to the report,

Welcoming the steps undertaken, and the suggestions made, by the Government of Italy following its offer to host a conference on the establishment of an international criminal court in June 1998, including the proposal to hold the conference during the period from 15 June to 17 July 1998 at the headquarters of the Food and Agriculture Organization of the United Nations at Rome,

1. Accepts with deep appreciation the generous offer of the Government of Italy to act as host to the diplomatic conference of plenipotentiaries on the establishment of an international criminal court;

2. Requests the Preparatory Committee on the Establishment of an International Criminal Court to continue its work in accordance with General Assembly resolution 51/207 and, at the end of its sessions, to transmit to the conference the text of a draft convention on the establishment of an international criminal court prepared in accordance with its mandate;

3. Decides that the United Nations Conference of Plenipotentiaries on the Establishment of an International Criminal Court, open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, shall be held at Rome from 15 June to 17 July 1998, with a view to finalizing and adopting a convention on the establishment of an international criminal court, and requests the Secretary-General to invite those States to the Conference;

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[2] A/AC.249/1997/L.5, annex III.

[3] A/52/32 and Corr.1.

4. Requests the Secretary-General to prepare the text of the draft rules of procedure of the Conference, to be submitted to the Preparatory Committee for its consideration and recommendations to the Conference, with a view to the adoption of such rules by the Conference in accordance with the rules of procedure of the General Assembly, and to provide for consultations on the organization and methods of work of the Conference, including rules of procedure, prior to the convening of the last session of the Preparatory Committee;

5. Urges participation in the Conference by the largest number of States so as to promote universal support for an international criminal court;

6. Notes with appreciation the establishment by the Secretary-General, pursuant to General Assembly resolution 51/207, of a Trust Fund for the participation of the least developed countries in the work of the Preparatory Committee and in the Conference, welcomes the decision by a number of States to make contributions to the Trust Fund, and encourages States to contribute voluntarily to it;

7. Requests the Secretary-General to establish a trust fund for voluntary contributions towards meeting the cost of participation in the work of the Preparatory Committee and the Conference of those developing countries not covered by the Trust Fund referred to in paragraph 6, and invites States to contribute voluntarily to this trust fund;

8. Also requests the Secretary-General to invite to the Conference representatives of organizations and other entities that have received a standing invitation from the General Assembly pursuant to its relevant resolutions[1] to participate, in the capacity of observers, in its sessions and work, on the understanding that such representatives would participate in the Conference in that capacity, and to invite, as observers to the Conference, representatives of interested regional intergovernmental organizations and other interested international bodies, including the International Tribunals for the Former Yugoslavia and for Rwanda;

9. Further requests the Secretary-General to invite non-governmental organizations, accredited by the Preparatory Committee with due regard to the provisions of section VII of Economic and Social Council resolution 1996/31 of 25 July 1996, and in particular to the relevance of their activities to the work of the Conference, to participate in the Conference, along the lines followed in the Preparatory Committee, on the understanding that participation means attending meetings of its plenary and, unless otherwise decided by the Conference in specific situations, formal meetings of its subsidiary bodies except the drafting group, receiving copies of the official documents, making available their materials to delegates and addressing, through a limited number

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[1] General Assembly resolutions 253 (III), 477 (V), 2011 (XX), 3208 (XXIX), 3209 (XXIX), 3237 (XXIX), 3369 (XXX), 31/3, 31/152, 33/18, 35/2, 35/3, 36/4, 42/10, 43/6, 43/177, 44/6, 45/6, 46/8, 47/4, 48/2, 48/3, 48/4, 48/5, 48/237, 48/265, 49/1, 49/2, 50/2, 51/1, 51/6 and 51/204.

of their representatives, its opening and/or closing sessions, as appropriate, in accordance with the rules of procedure to be adopted by the Conference;

10. Decides to include in the provisional agenda of its fifty-third session the item entitled 'Establishment of an international criminal court'.